

UNITED STATES DISTRICT COURT

for the

District of

EASTERN Division

Case No. _____

(to be filled in by the Clerk's Office)

MICHAEL KAZKHOFF

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

PANERA BREAD LLC

PANERA BREAD CO.

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

COMPLAINT AND REQUEST FOR INJUNCTION

I. The Parties to This Complaint

A. The Plaintiff(s)

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name	<u>MICHAEL KAZKHOFF</u>
Street Address	<u>P.O. Box 13553</u>
City and County	<u>WAUWATOSA, MILWAUKEE</u>
State and Zip Code	<u>WISCONSIN 53213</u>
Telephone Number	<u>262-282-3452</u>
E-mail Address	<u>KAZKHOFFMK@YAHOO.COM</u>

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known). Attach additional pages if needed.

Defendant No. 1

Name PANERA BREAD CO.
Job or Title (if known) BAKERY - CAFE'
Street Address 3630 S. GEYER RD. #100
City and County ST. LOUIS ST LOUIS COUNTY
State and Zip Code MO 63127
Telephone Number 855.372.6372 or 314.984.1000
E-mail Address (if known)

Defendant No. 2

Name JULIE GOODWATER
Job or Title (if known) JV GENERAL MANAGER
Street Address 2095 N. CARHOUN ROAD
City and County BROOKFIELD WAUKESHA
State and Zip Code WISCONSIN 53005
Telephone Number
E-mail Address (if known)

Defendant No. 3

Name JUSTIN SOHL
Job or Title (if known) REGIONAL MANAGER
Street Address 3630 S. GEYER RD. #100
City and County ST LOUIS ST LOUIS COUNTY
State and Zip Code MO 63127
Telephone Number 773.899.4109 (DIRECT)
E-mail Address (if known)

Defendant No. 4

Name MELANIE TRIMARCO
Job or Title (if known) PHR, SHRM-CP SENIOR HR MANAGER
Street Address 3630 S. GEYER RD. #100
City and County ST LOUIS ST LOUIS COUNTY
State and Zip Code MO 63127
Telephone Number 314.984.1000
E-mail Address (if known)

II. Basis for Jurisdiction

Federal courts are courts of limited jurisdiction (limited power). Generally, only two types of cases can be heard in federal court: cases involving a federal question and cases involving diversity of citizenship of the parties. Under 28 U.S.C. § 1331, a case arising under the United States Constitution or federal laws or treaties is a federal question case. Under 28 U.S.C. § 1332, a case in which a citizen of one State sues a citizen of another State or nation and the amount at stake is more than \$75,000 is a diversity of citizenship case. In a diversity of citizenship case, no defendant may be a citizen of the same State as any plaintiff.

What is the basis for federal court jurisdiction? (check all that apply)

☒ Federal question

☐ Diversity of citizenship

Fill out the paragraphs in this section that apply to this case.

A. If the Basis for Jurisdiction Is a Federal Question

List the specific federal statutes, federal treaties, and/or provisions of the United States Constitution that are at issue in this case. 510 U.S. 17, 21

29 CFR 1604.11, 41 CFR 60-20.8, 29 U.S. CODE 623

TITLE VII OF THE CIVIL RIGHTS ACT, WI STATE WFEA
111.31

B. If the Basis for Jurisdiction Is Diversity of Citizenship**1. The Plaintiff(s)****a. If the plaintiff is an individual**

The plaintiff, (name) _____, is a citizen of the
State of (name) _____.

b. If the plaintiff is a corporation

The plaintiff, (name) _____, is incorporated
under the laws of the State of (name) _____,
and has its principal place of business in the State of (name) _____.

(If more than one plaintiff is named in the complaint, attach an additional page providing the same information for each additional plaintiff.)

2. The Defendant(s)**a. If the defendant is an individual**

The defendant, (name) _____, is a citizen of
the State of (name) _____. Or is a citizen of
(foreign nation) _____.

b. If the defendant is a corporation

The defendant, (name) _____, is incorporated under the laws of the State of (name) _____, and has its principal place of business in the State of (name) _____.

Or is incorporated under the laws of (foreign nation) _____, and has its principal place of business in (name) _____.

(If more than one defendant is named in the complaint, attach an additional page providing the same information for each additional defendant.)

3. The Amount in Controversy

The amount in controversy—the amount the plaintiff claims the defendant owes or the amount at stake—is more than \$75,000, not counting interest and costs of court, because *(explain)*:

NUMEROUS CHARGES BEGIN AT 50,000 Ea.

III. Statement of Claim

Write a short and plain statement of the claim. Do not make legal arguments. State as briefly as possible the facts showing that each plaintiff is entitled to the injunction or other relief sought. State how each defendant was involved and what each defendant did that caused the plaintiff harm or violated the plaintiff's rights, including the dates and places of that involvement or conduct. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

A. Where did the events giving rise to your claim(s) occur?

Via U.S. MAIL (SEE ENCLOSED)

B. What date and approximate time did the events giving rise to your claim(s) occur?

SEPTEMBER 23, 2021 & OCTOBER 4, 2021

- C. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)

PANERA BREADS COUNSEL IS SHARON MOLLMAN ELLIOTT. MS. ELLIOTT ASKED THAT I DO NOT INCLUDE THE JUDGE IN SETTLEMENT DISCUSSIONS. I OBJECT TO THE PALTRY SUM OF 500.⁰⁰, IT IS A DISGRACE TO ME. MS. ELLIOTT STATES IF I TOOK IT TO A HEARING I WOULD NOT BE AWARDED. MS. ELLIOTT IS WAY OUT OF BOUNDS PROSSERING DE FACTO MANIPULATIVE SENTENCES.

IV. Irreparable Injury

Explain why monetary damages at a later time would not adequately compensate you for the injuries you sustained, are sustaining, or will sustain as a result of the events described above, or why such compensation could not be measured.

MS. ELLIOTT IS NOT OR EVER HAS BEEN MY COUNSEL. IF I NEED A QUESTION I WOULD PREFER TO ASK THE JUDGE.

V. Relief

State briefly and precisely what damages or other relief the plaintiff asks the court to order. Do not make legal arguments. Include any basis for claiming that the wrongs alleged are continuing at the present time. Include the amounts of any actual damages claimed for the acts alleged and the basis for these amounts. Include any punitive or exemplary damages claimed, the amounts, and the reasons you claim you are entitled to actual or punitive money damages.

THE OFFER OF 500.⁰⁰ IS LESS THAN I MADE IN A SINGLE WEEK AT PANERA BREAD. I WAS GROSSED OUT AT 600.⁰⁰ EVERY WEEK. ANY RELIEF WOULD INCLUDE OUT-OF-POCKET EXPENSES AS WELL FOR MY TIME & COPY COSTS.

VI. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 10/22/2021

Michael Kalkhoff
P.O. Box 13553
Wauwatosa, WI 53213

Signature of Plaintiff Michael Kalkhoff
Printed Name of Plaintiff MICHAEL KALKHOFF

B. For Attorneys

Date of signing: _____

Signature of Attorney _____
Printed Name of Attorney _____
Bar Number _____
Name of Law Firm _____
Street Address _____
State and Zip Code _____
Telephone Number _____
E-mail Address _____

Copy

Jackson Lewis P.C.
22 East Mifflin Street, Suite 800
Madison WI 53703
(608) 729-5598 Main
(608) 260-0058 Fax
jacksonlewis.com

September 23, 2021

Via U.S. Mail

Michael Kalkhoff
P.O. Box 13553
Wauwatosa, WI 53213

Re: *Michael Kalkhoff v. Panera Bread*
ERD Case No. CR201701253

FOR SETTLEMENT PURPOSES ONLY

Dear Mr. Kalkhoff:

I represent Panera Bread. We previously offered to settle your claims for \$500 in exchange for a full release of claims—that offer still stands. As I explained to your prior counsel (and as it appears other attorneys have since advised you), there is no monetary relief available under state law for your harassment claim and your discharge claim was untimely. As a result, even if you took this case to hearing and won, you would not be awarded any money. (This is why the attorneys you spoke to are not interested in representing you: they are usually paid a percentage of the amount awarded if they win, and a percentage of \$0 is \$0).

Despite the lack of value to your claim, it is a nuisance to deal with, so Panera Bread is willing to pay you \$500 if you drop all claims against them. If you are interested, please let me know and I can send you a settlement agreement for review.

Sincerely,

Sharon Mollman Elliott/smf

Sharon Mollman Elliott
Of Counsel
(608) 807-5280 Direct
Sharon.Elliott@JacksonLewis.com
Jackson Lewis P.C.

SME/smf

Copy

October 4, 2021

Via U.S. Mail

Michael Kalkhoff
P.O. Box 13553
Wauwatosa, WI 53213

**Re: *Michael Kalkhoff v. Panera Bread*
ERD Case No. CR201701253**

Dear Mr. Kalkhoff:

I write in response to your letter asking about settlement. Please note that while you need to include me on communications that you have with the Judge, you need not include the Judge on communications with me. Indeed, you should not include her in settlement discussions, as that is between the parties.

You asked about the \$7500 settlement offer that your counsel told you about. Last winter, your counsel and I engaged in settlement discussions. I started at \$500, but we eventually negotiated an offer of \$7500. In early March, however, he rejected the offer, telling me that he did not have authority from you to accept less than \$10,000. That took the \$7500 off the table, but Panera still left the \$500 open.

If you are interested in settling for \$7500, I can certainly see if Panera is willing to put that offer back on the table. Please let me know—and feel free to call or email me rather than writing letters. Nothing we discuss during settlement negotiations is admissible as evidence.

Sincerely,

/s/ Sharon Mollman Elliott

Sharon Mollman Elliott
Of Counsel
(608) 807-5280 Direct
Sharon.Elliott@JacksonLewis.com
Jackson Lewis P.C.

SME/smf